

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MAUREEN REDDY,

Plaintiff,

v.

LOWE'S COMPANIES, INC. and  
EVOLUTION LIGHTING, LLC,

Defendants.

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Civil Action No. 13-cv-13016-IT

ORDER

July 18, 2016

TALWANI, D.J.

On April 1, 2016, Defendants notified the court that the Patent Trial and Appeal Board ("PTAB") issued a final written decision pursuant to 35 U.S.C. § 318(a) finding the '423 patent unpatentable as obvious under 35 U.S.C. § 102(b). Under 35 U.S.C. § 318(b), any claim of a patent finally determined to be unpatentable is cancelled once "the time for appeal has expired or any appeal has terminated." On June 3, 2016, the time for appeal expired, and the claims of the '423 patent were cancelled.

When "a claim is cancelled, the patentee loses any cause of action based on that claim, and any pending litigation in which the claims are asserted becomes moot." Fresenius USA, Inc. v. Baxter Int'l, Inc., 721 F.3d 1330, 1340 (Fed. Cir. 2013). Because the claims of the '423 patent have been cancelled, Defendants' pending counterclaims are moot. Accordingly, Defendants' Counterclaims are DISMISSED as moot and the pending motions—Defendants' Motion for Summary Judgment on Counterclaims of Invalidity and Unenforceability [#175], Plaintiff's Motion to Lift Confidential Designation on a Selection of Impounded Documents [#178]

(sealed), Defendants' Motion to Seal [#179] and Defendants' Motion to Dismiss Second, Third and Fourth Counterclaims [#203]—are DENIED AS MOOT.

Defendants shall submit a proposed judgment no later than July 25, 2016.

IT IS SO ORDERED.

July 18, 2016

/s/ Indira Talwani  
United States District Judge